

## **Professionalism Commission Minutes, February 15, 2006**

Judge Battaglia called the meeting to order at 3:00 p.m. Absentees included: Judge Bennett (Judge Legg attended this meeting), Rig Baldwin, Donald Braden, Abe Dash, Mark Davis, David Densford, Bob Greenleaf, Kristy Hickman, William Hudson, Nick Monteleone, Linda Ostovitz, James Otway, Mike Preston, Dan Saunders, Dwight Stone, Judge Sweeney, Daryl Walters, and Dana Williams. The minutes from the January 11, 2006 Meeting were approved.

Debbie Potter presented the final report of the Subcommittee on the Professionalism Course for New Admittees. The Subcommittee considered several suggestions by the Commission, including the possibility of the course being administered by each local bar and the suggestion that the course be postponed until after admittees have practiced for a year. Although both suggestions have some merit, neither is practicable or workable at this time. The final report was approved by voice vote.

The Commission again took up the question of a proposed addition to the Rules of Professional Responsibility, namely, Rule 8.4 (h). After considering the alternative of a comment to Rule 8.4 (d), the Commission approved the recommendation of new Rule 8.4 (h), a copy of which is attached to these minutes.

In discussing proposed new Rule 1-342, the Commission was concerned with notice, appeal, and other rights of lawyers who may be sanctioned under the proposed new rule. The Commission decided to recommend that a comment be added to the proposed new Rule 1-342 stating that the same common law due process safeguards afforded under Rule 1-341, will also apply to Rule 1-342. Proposed new Rule 1-342 was approved in the form attached to these minutes.

Norman Smith and Karen Federman-Henry reported on behalf of the Subcommittee on a Course in Professionalism for Experienced Lawyers. Ms. Henry explained that the Subcommittee has determined that a counseling program, similar to that in place under the auspices of a Professionalism Commission in several other states, is preferable to a course. The Commission authorized the Subcommittee to change its approach to one of developing a counseling program and to present a final report at the next meeting.

Judge Hong presented the report of the Subcommittee on the Judge's Role in the Bar and in the Community. Judge Hong reported that she has submitted the draft report to District Judge Cooksey for comment. Judge Cooksey, in turn, presented the report to the Judicial Ethics Committee, which has not commented. The Commission discussed waiting for comment from the Judicial Ethics Committee before finalizing the Subcommittee Report, but decided that the Ethics Committee and the Commission should act independently. Therefore, the Commission decided to approve the Subcommittee Report as revised and attached to these minutes.

Judge Battaglia then took up the question of the future of the Commission. If made permanent, what would the Commission do? The group suggested that a permanent Commission could administer a mentoring program and a counseling program, serve as a resource center, track and evaluate the success of the Task Force and Commission thus far, take professionalism complaints for referral to counseling, interface with Professionalism Commissions from other states, and generally act as a "respect for the Rules police." The Commission determined that a permanent Commission is desirable. Therefore, the Commission must have a mission statement, a report to the Court of Appeals, and permission to travel the State to present the Commission Recommendations. There should also be someone to sponsor the Commission's recommendations through the Rules Committee. Two interns assigned to the Commission will begin work on these tasks.

Judge Salmon presented the Interim Report of the Subcommittee on Mentoring. The best option is for an improvement of the mentoring program now done by the MSBA. Presently, almost 300 lawyers have volunteered to be mentors, but they are underused. At the Professionalism Course for New Admittees, new lawyers should be connected with mentors. Mentoring should continue for a year. The Young Lawyers Section of the MSBA should be asked to help match mentors with mentees, since matching is the most difficult aspect. Professor Warnken reported on Judicial mentors for law student, who are being assigned regularly. This could be administered in the future by the Commission on a mandatory basis for the University of Maryland and University of Baltimore Law Schools. At the next Commission meeting, the Commission will vote on the Final Report of the Subcommittee.

The next meeting will be on March 29, 2006 at 3:00 p.m. Judge Battaglia adjourned the meeting at 6:00 p.m. Subcommittee Reports and other materials discussed today will be made a part of these minutes.

Norman L. Smith, Reporter